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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,696	09/08/2003	Douglas J. Menkedick	8266-0880	1212

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

EXAMINER

SANTOS, ROBERT G

ART UNIT	PAPER NUMBER
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3673

MAIL DATE	DELIVERY MODE
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05/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/657,696

Applicant(s)

MENKEDICK ET AL.

Examiner

Robert G. Santos

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 51-107 is/are pending in the application.
- 4a) Of the above claim(s) 51-107 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. App. Pub.2004/0177445 to Osborne et al. in view of U.S. Pat. No. 7,009,995 to Bohrer et al. Osborne et al. '445 are considered to show all of the claimed limitations as recited in claims 1-22 (see Figures 40-51, 116-123 & 128; page 16; page 17, lines 1-6 & paragraph 0248; page 18, paragraphs 0251-0259; page 19, lines 1-7; page 44, paragraphs 0540-0549; page 45; page 46, lines 1-5; page 47, paragraphs 0569-0575; and page 48, lines 1-13) except for a condition wherein the at least one actuator or lift mechanism (2048a, 2048b) is coupled to a controller area network. Bohrer et al. '995 provide the basic teaching of a controller area network which is currently used in medical technology and is known "for networking...actuators within an installation or machine" (see Bohrer et al. '995, column 1, lines 15-22). The skilled artisan would have found it obvious at the time the invention was made to couple the at least one actuator or lift mechanism to a controller area network since this type of digital communication protocol is well known and widely used due to its high speed and integrity, simple wiring construction and relatively low cost.

Response to Amendment

In response to Applicants' arguments on pages 14 and 15 concerning claims 57-72 and 75-107, the examiner respectfully maintains the withdrawal of these claims from consideration since they are drawn to an invention that is independent and distinct from the invention originally claimed and are simply far removed from the examiner's field of search as indicated previously; furthermore, the examiner respectfully proffers that the filing of claims 57-72 and 75-107 in a divisional application would most likely effect examination of these claims.

In response to Applicants' arguments on pages 15-17 of his amendment regarding claims 1-22, the examiner respectfully maintains that the combination of the Osborne et al. '445 and Bohrer et al. '995 references is proper given that Osborne et al. repeatedly mention the use of an electrical control system for adjusting the various positioning mechanisms of a hospital bed (see also page 22, paragraph 0294; page 28, paragraph 0371; and page 30, paragraph 0387) whereas Bohrer et al. provide the basic teaching that a controller area network has long been known as a conventional communication network for electrical control systems which is also "currently used...in medical technology." Furthermore, the examiner respectfully asserts that the rejection of claims 1-22 as a group is still sufficient given the high degree of similarity between Applicants' invention and the device of Osborne et al. '445 as shown in Figures 116-137 and as described on pages 44-51, paragraphs 0540-0604. Hence, the prior art rejections have been respectfully maintained.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kummer et al. '982 and Phillips et al. '579.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

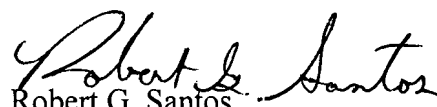
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3673

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
April 28, 2007